

HOUSE BILL 1867

By Smith

AN ACT to amend Tennessee Code Annotated, Title 63,
relative to direct medical care agreements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, Part 5, is amended by deleting the part and substituting the following:

63-1-501. Short title.

This part shall be known and may be cited as the "Health Care Empowerment Act."

63-1-502. Part definitions.

As used in this part:

(1) "Direct medical care agreement" means a written contractual agreement between a direct medical care provider and an individual patient, or the patient's legal representative, in which:

(A) The direct medical care provider agrees to provide primary care services to the individual patient for an agreed fee over an agreed period of time;

(B) The direct medical care provider will not bill third parties on a fee-for-service basis;

(C) Any per-visit charges under the agreement will be less than the monthly equivalent of the periodic fee;

(D) The agreement describes the scope of the medical care service that is covered by the periodic fee;

(E) The agreement contains the following disclosures, or substantially similar disclosures, that are conspicuously visible in the agreement in bold font:

(i) The agreement does not constitute health insurance under the laws of this state;

(ii) An uninsured patient that enters into a direct medical care agreement may be subject to tax penalties under the Patient Protection and Affordable Care Act, Public Law 111-148, for failing to obtain insurance;

(iii) Patients insured by health insurance plans that are compliant with the Patient Protection and Affordable Care Act already have coverage for certain preventative care benefits at no cost to the patient;

(iv) Payments made by a patient for services rendered under a direct medical care agreement may not count towards the patient's health insurance deductibles and maximum out-of-pocket expenses;

(v) A patient is encouraged to consult with the patient's health insurance plan before entering into the agreement and receiving care; and

(vi) A direct medical care provider who breaches the agreement may be liable for damages and subject to discipline by the appropriate licensing board;

(F) The agreement specifies the duration of the agreement, including automatic renewal periods; and

(G) The patient is not required to pay more than twelve (12) months of the fee in advance. However, the contracted fee may be paid

on a payment schedule agreed to by the direct medical care provider and patient that may be due on a monthly, quarterly, or yearly basis;

(2) "Direct medical care provider":

(A) Means an individual or legal entity that is licensed, registered, or otherwise authorized to provide medical care services in this state under this title, and who chooses to enter into a direct medical care agreement; and

(B) Includes an individual medical care provider or other legal entity, alone or with others professionally associated with the provider or other legal entity;

(3) "Medical care service" includes the screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and management of disease or injury within the competency and training of the direct medical care provider; and

(4) "Medical products" include medical drugs and pharmaceuticals.

63-1-503. Purchase and payment of medical services or products outside of insurance plan or outside of TennCare or Medicare program not prohibited.

(a)

(1) Nothing in state law prohibits a patient or a legal representative of a patient from seeking care outside of an insurance plan, or outside of the TennCare or Medicare program, and paying for that care.

(2) Nothing in state law prohibits a medical care provider licensed under this title, or a healthcare facility, licensed under title 33 or 68, from accepting payment for services or medical products outside of an insurance plan.

(3) Nothing in state law prohibits a medical care provider licensed under this title, or a healthcare facility, licensed under title 33 or 68, from accepting payment for services or medical products provided to a TennCare or Medicare beneficiary.

(b) A patient or legal representative does not forfeit insurance benefits, TennCare benefits, or Medicare benefits by purchasing medical services or medical products outside the system.

(c) The offer and provision of medical services or medical products purchased and provided under this part is not an offer of insurance and is not regulated by the insurance laws of this state.

63-1-504. Direct medical care agreement.

(a) A direct medical care agreement is not insurance and is not subject to regulation by the department of commerce and insurance.

(b) Entering into a direct medical care agreement is not the business of insurance and is not subject to regulation under title 56.

(c) A direct medical care provider, or the agent of a direct medical care provider, is not required to obtain a certification of authority or license under the Tennessee Insurance Producer Licensing Act of 2002, compiled in title 56, chapter 6, to market, sell, or offer to sell a direct medical care agreement.

(d) A direct medical care agreement is not a discount medical plan.

(e) A direct medical care agreement must:

(1) Allow either party to terminate the agreement upon written notice to the other party;

(2) Provide that fees are not earned by the direct medical care provider until the month paid by the periodic fee has been completed; and

(3) Provide that, upon termination of this agreement by the individual patient, all unearned fees are to be returned to the patient.

SECTION 2. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act shall take effect on July 1, 2020, the public welfare requiring it.